

E-FILED - 3/18/09

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

JAMES D. SMITH,)	C 08-5298 RMW (PR)
)	
Petitioner,)	ORDER DENYING MOTION FOR
)	RECONSIDERATION
vs.)	
)	
GREGORY AHERN,)	
)	(Docket No. 9)
Respondent.)	
_____)	

Petitioner, a state prisoner proceeding pro se, filed writ of habeas corpus. On December 15, 2008, the court dismissed petitioner's petition on abstention grounds under the rationale of Younger v Harris, 401 U.S. 37 (1971). Petitioner then filed a "Motion for En Blanc [sic] Review" (docket no. 9) which this court construes as a motion for reconsideration.

Rule 60(b) of the Federal Rules of Civil Procedure provides for reconsideration where one or more of the following is shown: (1) mistake, inadvertence, surprise or excusable neglect; (2) newly discovered evidence that by due diligence could not have been discovered before the court's decision; (3) fraud by the adverse party; (4) voiding of the judgment; (5) satisfaction of the judgment; (6) any other reason justifying relief. See Fed. R. Civ. P. 60(b); School Dist. 1J v. ACandS Inc., 5 F.3d 1255, 1263 (9th Cir.1993). Although couched in broad terms, subparagraph (6) requires a showing that the grounds justifying relief are extraordinary. Twentieth Century -

1 Fox Film Corp. v. Dunnahoo, 637 F.2d 1338, 1341 (9th Cir. 1981).

2 In the present motion, petitioner does not indicate what provision of Rule 60(b) applies to
3 his case. Petitioner does not make a showing of mistake, inadvertence, surprise or excusable
4 neglect. He does not set forth any newly discovered evidence, fraud, or any grounds for finding
5 that the judgment is void or has been satisfied. Nor does he set forth any other reason justifying
6 relief. Petitioner's arguments are merely a restatement of issues the court considered and
7 rejected. Petitioner may raise such arguments on appeal, but they are not grounds for
8 reconsideration. See id.

9 Accordingly, the motion for reconsideration is DENIED (docket no. 9).

10 IT IS SO ORDERED.

11 DATED: 3/16/09


RONALD M. WHYTE
United States District Judge